

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

LESLIE BERNARD HOWARD,

CV. 07-6306-ST

Plaintiff,

FINDINGS AND RECOMMENDATION

v.

OFFICER D. SHERBONDY, OFFICER  
B. WILSON, OFFICER GILBERTSON,  
and OFFICER DENISE PARKER,

Defendants.

STEWART, Magistrate Judge.

On August 4, 2008, defendants in this civil action filed a Motion to Dismiss this case based on plaintiff's alleged failure to exhaust his administrative remedies. Defendants' Motion prompted the court to issue a Rule 12 Advice Notice (docket #35) to plaintiff on August 20, 2008 advising him of his right to supplement the record with evidence pertaining to his exhaustion of administrative remedies. One week later, the Rule 12 Advice Notice was returned to the court for lack of a current address.

1 - FINDINGS AND RECOMMENDATION

Accordingly, on September 5, 2008, the court issued an Order to Show Cause (docket #39) requiring plaintiff to file a notice of change of address by October 24, 2008 or show cause why his case should not be dismissed for lack of prosecution. On September 25, 2008, the Order to Show Cause was returned to the court for lack of a current address.

Pursuant to Local Rule 83.10(a) and (b), every unrepresented party has a continuing responsibility to notify the clerk's office and all parties whenever they change their mailing address. When mail from the court to a party cannot be delivered due to the lack of a current address, and the failure continues for sixty (60) days, the court may dismiss the action. Local Rule 83.12. Because plaintiff has been without a current address for more than 60 days, this action should be dismissed for lack of prosecution.

#### **RECOMMENDATION**

For the reasons identified above, this action should be DISMISSED, without prejudice, for lack of prosecution.

#### **SCHEDULING ORDER**

Objections to these Findings and Recommendation(s), if any, are due November 14, 2008. If no objections are filed, then the Findings and Recommendation will be referred to a district court judge and go under advisement on that date.

If objections are filed, then the response is due within 10 days after being served with a copy of the objections. When the response is due or filed, whichever date is earlier, the Findings and Recommendation will be referred to a district court judge and go under advisement.

IT IS SO ORDERED.

DATED this 28th day of October, 2008.

/s/ Janice M. Stewart

Janice M. Stewart

United States District Judge